

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
Charlotte Division**

In re:

Pacific Avenue, LLC, et al.,¹

Debtors.

CASE NO. 10-32093

CHAPTER 11

Jointly Administered²

**APPLICATION FOR ORDER AUTHORIZING
THE EMPLOYMENT OF GRIER FURR & CRISP, PA**

Pacific Avenue, LLC (“Pacific Avenue”), and Pacific Avenue II, LLC (“Pacific Avenue II”), debtors and debtors-in-possession in the above-captioned case (the “Debtors” and “Debtors-in-Possession”), hereby move the Court for an order authorizing the employment of Grier Furr & Crisp, PA as attorneys for the Debtor, pursuant to Section 327(a) of the Bankruptcy Code, and in support thereof shows the Court as follows:

JURISDICTION

1. This Court has jurisdiction over this application pursuant to 28 U.S.C. §§ 157 and 1334. Venue of this proceeding is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2)(A) and (O).

BACKGROUND

2. The Debtor filed its voluntary petition for relief pursuant to chapter 11 of the United States Bankruptcy Code on July 22, 2010 (the “Petition Date”).

3. Pursuant to §§ 1107 and 1108 of the United States Bankruptcy Code, the Debtors continues in possession of its properties and the management of its affairs as debtors-in-

¹ These jointly administered cases are those of the following debtors: Pacific Avenue, LLC and Pacific Avenue II, LLC, Case numbers 10-32093 and 10-32095, respectively.

² Contemporaneously with this Application, the Debtors have filed a Motion for Joint Administration seeking to jointly administer the Debtors’ cases with the case of Pacific Avenue, LLC serving as the lead case.

possession.

4. The Debtors are North Carolina limited liability companies whose principal place of business is located in Charlotte, North Carolina.

5. Together, as tenants-in-common, the Debtors own and operate the EpiCentre, a mixed-use commercial development consisting of approximately 302,000 rentable square feet of office and retail/entertainment space, plus an underground parking deck, located at 210 E. Trade St. in the city block surrounded by the light rail line, Fourth Street, College Street, and Trade Street in uptown Charlotte, North Carolina (the "Property").³ The Debtors have operated the EpiCentre jointly without regard to their separate ownership interests.

RELIEF REQUESTED

6. This Application is presented pursuant to § 327(a) of the Bankruptcy Code which provides that, with the Court's approval, a trustee may employ one or more attorneys that do not hold or represent an interest adverse to the estate and are disinterested persons to represent the trustee in carrying out the trustee's duties under the Bankruptcy Code. 11 U.S.C. § 327(a).

7. The Debtors seek approval of this application to employ the firm of Grier Furr & Crisp, PA ("Grier"), 101 North Tryon Street, Suite 1240, Charlotte, North Carolina 28246, the attorneys of which firm are admitted to practice in this Court.

8. The Debtors have selected Grier because Joseph W. Grier, III, A. Cotten Wright, and Anna S. Gorman, who will be the attorneys primarily involved in this case, have had experience in matters of this character, and the Debtors believe that Grier and its attorneys are well qualified to represent them as debtors-in-possession in this proceeding.

9. The professional services that Grier is to render are necessary in order to enable

³ Pacific Avenue II, LLC owns a 88% undivided interest in the Property, and Pacific Avenue, LLC owns a 12% undivided interest.

the Debtors to execute their duties as debtors-in-possession. Grier has informed the Debtor that its billing rates range from \$425.00 to \$295.00 per hour for partners, \$295.00 to \$175.00 for associates, and \$140.00 for paraprofessionals. These rates are subject to periodic adjustments. The Debtors have been billed and will continue to be billed at Grier's customary billing rates for matters of this type.

10. Subject to the control and orders of this Court, the Debtors propose to retain Grier to give the Debtors legal advice with respect to their powers and duties as debtors-in-possession in the continued management of its property and to perform all other legal services for Debtors as debtors-in-possession which may be necessary herein, including but not limited to the following:

- a. To advise and consult with respect to the Debtors' powers and duties as debtors-in-possession.
- b. To take all necessary action to protect and preserve the Debtors' estate, including the prosecution of actions on behalf of the Debtors, the defense of any actions commenced against the Debtors, negotiations concerning all litigation in which the Debtors are involved, and the objection to claims filed against the Debtors' estates.
- c. To prepare on behalf of the Debtors all necessary motions, answers, orders, reports and other legal papers in connection with the administration of its estate.
- d. To perform any and all other legal services for the Debtors in connection with this chapter 11 case and with the formulation and implementation of the Debtors' chapter 11 plan.
- e. To advise and assist the Debtors regarding all aspects of the plan confirmation process, including, but not limited to, securing the approval of a disclosure statement by the Court and the confirmation of the plan at the earliest possible date.
- f. To give legal advice and perform legal services with respect to other issues relating to the foregoing.

11. It is necessary for the Debtors as debtors-in-possession to employ an attorney for such professional services. Grier has indicated a willingness to act on the Debtors' behalf at its normal and customary rates for matters of this type, together with reimbursement of all costs and expenses incurred by Grier in connection herewith, as described in the *Declaration of Joseph W. Grier, III* filed concurrently herewith. The Debtors proposes to pay Grier at such rates and to reimburse it for such expenses, subject to the provisions of the Bankruptcy Code, the Bankruptcy Rules and the Local Rules for this Court, and any orders entered by this Court. Grier has advised the Debtors that it is its policy to charge its clients in all areas of practice for expenses incurred in connection with the client's case. The expenses charged to clients include, among other things, telephone and telecopier charges, mail and express mail charges, special or hand-delivery charges, document processing, photocopying charges, charges for mailing supplies provided by me to outside copying services, travel expenses, online research expenses, transcription costs, as well as ordinary overhead expenses such as secretarial and other overtime.

12. Grier represented the Debtors pre-petition in negotiating with the debtors' creditors and preparing the debtors' Chapter 11 filing. For that representation, the debtors have paid Grier the sum of \$34,492.41. Grier currently holds a retainer in the amount of \$100,000.

13. To the best of the Debtors' knowledge, Grier has no connection with the creditors or any other party in interest or their respective attorneys, and Grier is a "disinterested person" as defined by § 101(14) of the Bankruptcy Code.

NOTICE

14. Notice of this Motion has been given to (i) the top twenty holders of general unsecured claims against Pacific Avenue; (ii) the top twenty holders of general unsecured claims against Pacific Avenue II; (iii) the Office of the United States Bankruptcy Administrator for the Western District of North Carolina; (iv) counsel for ~~Regions~~ Bank, the administrator for the Debtors' bank group creditors; and (v) secured creditors Preferred Parking Service, LLC and US Bank NA.

WHEREFORE, the Debtors pray that they be authorized to employ and appoint Grier Furr & Crisp, PA to represent the Debtors as debtors-in-possession in this proceeding under Chapter 11 of the Bankruptcy Code, with compensation and reimbursement of expenses to be paid as an administrative expense in such amounts as may be allowed by the Court pursuant to §§ 330, 331, and 507(a)(2) of the Bankruptcy Code, and that it have such other and further relief as is just.

Dated this 12 day of July, 2010.

PACIFIC AVENUE, LLC

By: 

Afshin Ghazi, Manager

PACIFIC AVENUE II, LLC

By: 

Afshin Ghazi, Manager

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**DECLARATION OF PROPOSED ATTORNEY TO
BE EMPLOYED UNDER GENERAL RETAINER**

Joseph W. Grier, III, being first duly sworn, deposes and says:

1. I am an attorney at law admitted to practice before this Court and am a member of the law firm of Grier Furr & Crisp, PA, with offices at 101 North Tryon Street, Suite 1240, Charlotte, North Carolina 28246.

2. Grier represented the Debtors pre-petition in negotiating with the debtors' creditors and preparing the debtors' Chapter 11 filing. For that representation, the debtors have paid Grier the sum of \$34,492.41. Grier currently holds a retainer in the amount of \$100,000.

3. Neither I, my firm, nor any member or associate thereof, insofar as I have been able to ascertain, has any connection with the Debtors herein, their creditors, or any other party in interest, their respective attorneys and accountants, the Bankruptcy Administrator, or any person employed in the office of the Bankruptcy Administrator. Neither I, my firm, nor any member or associate thereof, insofar as I have been able to ascertain, represents any interest adverse to that of the estates or the Debtors in the matters upon which said law firm is to be engaged.

4. Based on the foregoing, I believe the firm of Grier Furr & Crisp is a "disinterested person" within the meaning of §§ 101 and 327 of the Bankruptcy Code.

5. The undersigned has advised the Debtors of the firm's willingness to serve as the debtor's counsel under a general retainer based on time and standard billable charges. The firm has not agreed to share any compensation it may receive with another party or person other than the partners and associates of Grier Furr & Crisp.

6. The billing rates for Grier Furr & Crisp range from \$425.00 to \$295.00 per hour for partners, \$295.00 to \$175.00 for associates, and \$140.00 for paraprofessionals. The current hourly rates of the attorneys and paraprofessionals likely to work on this matter, which are adjusted periodically, usually on January 1 of each calendar year, are as follows:

Joseph W. Grier, III	Partner	\$425.00 per hour
A. Cotten Wright	Partner	\$310.00 per hour
Anna S. Gorman	Staff Attorney	\$295.00 per hour
Kay Buffaloe	Paralegal	\$140.00 per hour

In addition, Grier Furr & Crisp may assign other attorneys or paraprofessionals to work on this matter, if necessary, at their ordinary billing rates.

7. The hourly rates set forth above are Grier Furr & Crisp's standard hourly rates for work of this nature. These rates are set at a level designed to fairly compensate Grier Furr & Crisp for the work of its attorneys and paralegals and to cover fixed and routine overhead expenses. It is Grier Furr & Crisp's policy to charge clients for all other expenses incurred in connection with the client's case. The expenses charged to clients include, among other things, telephone and telecopier charges, mail and express mail charges, special or hand-delivery charges, document processing, photocopying charges, charges for mailing supplies provided by me to outside copying services, travel expenses, online research expenses, transcription costs, as

well as ordinary overhead expenses such as secretarial and other overtime. Grier Furr & Crisp will charge the estate for these expenses in a manner and at rates consistent with charges made generally to Grier Furr & Crisp's other clients. Grier Furr & Crisp will seek reimbursement of its fees and expenses as allowed pursuant to the Bankruptcy Code, the Bankruptcy Rules, and the rules and orders of this Court.

8. Based on the information available to me, and except as otherwise described herein, Grier Furr & Crisp holds no interest adverse to the Debtors and their estates as to the matters in which it is to be employed. I believe that Grier Furr & Crisp is a "disinterested person" as defined in § 101(14) of the Bankruptcy Code and may act as legal counsel for the Debtors. Should I determine that Grier Furr & Crisp's status as a disinterested person has changes, I will file supplemental declarations with the Court.

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 22nd day of July, 2010.

/s/ Joseph W. Grier, III
Joseph W. Grier, III (State Bar No. 7764)
Grier Furr & Crisp, PA
101 North Tryon Street, Suite 1240
Charlotte, North Carolina 28246
704.375.3720
igrier@grierlaw.com

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that copies of the foregoing *Application for Order Authorizing The Employment of Grier Furr & Crisp, PA* were served on the names appearing on the attached list by email, facsimile, or by placing copies in the United States mail, postage prepaid, and addressed as indicated.

This is the 22nd day of July, 2010.

/s/ Joseph W. Grier, III

Joseph W. Grier, III

Grier Furr & Crisp, PA

101 North Tryon Street, Suite 1240

Charlotte, North Carolina 28246

FIRST DAY NOTICE PARTIES

Linda Simpson
United States Bankruptcy Administrator
Via electronic service

Secured Creditors:

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Douglas R. Ghidina
Moore & Van Allen PLLC
100 N Tryon St, Ste 4700
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Preferred Parking Service, LLC
212 S. Tryon St., Suite 1300
Charlotte, NC 28209
roger@preferredparking.com

US Bank NA
US Bancorp Center
800 Nicollet Mall, 22nd Fl
Minneapolis, MN 55402-7020
david.kopolow@usbank.com

Utility Providers:

City of Charlotte
Billing Center
600 East Fourth Street
Charlotte, NC 28250-0001
Fax: 704-423-4201

Duke Energy
PO Box 70516
Charlotte, NC 28272-0516
Fax: 800-943-6910; 704-594-0557

Piedmont Natural Gas
PO Box 533500
Atlanta, GA 30353-3500
Fax: 877-525-2880

Windstream
Windstream Corporation
PO Box 9001908
Louisville, KY 40290-1908
Fax: 704-849-5272

20 Largest Unsecured Creditors:

Acousti Engineering Co.
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Charlotte, NC 28217
Fax: (704) 424-9767

ADW Architects
1401 West Morehead Street
Charlotte, NC 28208-5261
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Atlantic Coast Waterproofing, Inc.
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Bruegger's Bagels
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Wild Wing Cafe
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